MULTIMEDIA UNIVERSITY

STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 2, 2022/2023

ULT 2622 – LAW OF TORTS II

(All sections / Groups)

7th JULY 2023

Reading Time: 9.00 a.m. – 9.15 a.m.
(15 Minutes)
Answering Time: 9.15 a.m. – 12.15 p.m.
(3 Hours)

INSTRUCTIONS TO STUDENTS

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.

2. This Question paper consists of 3 pages with 5 questions only.

3. Attempt TWO questions in Part A and answer ALL questions from Part B. All questions carry equal marks and the distribution of the marks for each question is given.

4. Please write all your answers in the Answer Booklet provided.

PART A
ANSWER TWO QUESTIONS ONLY

QUESTION 1

In delivering a judgment in a case, Blackburn J in the Court of Exchequer Chamber said that:

"We think that the true rule of law is, that the person who for his own purposes brings on his lands and collects and keeps there anything likely to do mischief if it escapes, must keep it at his own peril, and, if does not do so, is prima facie answerable for all the damage which is the natural consequences of its escape."

In light of the above statement, identify the case which was referred to by Blackburn J and examine its rule under the law of tort.

(Total: 25 marks)

QUESTION 2

Tortious interference in contract or business occurs when one party interferes with the business relationship of another party, causing economic harm to that party. This interference includes agreements between two or more persons to injure other person's business and deliberate interference in the execution of a valid contract between two or more parties which has caused one of the parties to breach the contract.

Based on the above statement, determine and analyse the type of interference stated above with special reference to decided cases.

(Total: 25 marks)

QUESTION 3

A critical question is whether the statute intends to give a right of action in tort. Some statutes clearly prohibit a separate right of action in tort, such as section 59 of the Occupational Safety and Health Act 1994. More often than not, however, the legislative intention is unexpressed. The courts have had to develop their own guidelines on whether Parliament intended a breach of a statute to be actionable in tort.

Examine in what circumstances it is said that a particular statute allows a separate action in tort in light of decided cases.

(Total: 25 marks)

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PART B
ANSWER ALL QUESTIONS

QUESTION 4

Dr Meena was a specialist attached to Putra Saga Medical Centre, Bukit Permata. She was practising in obstetrics and gynecology and rented a specialist clinic at the medical center and used all the hospital's ward and equipment for his patients. When patients would like to see any specialist in the medical center, they shall register themselves at a specific counter and then proceed to a particular specialist. The bills shall be paid by the patients at the finance counter, and all the medication prescribed by the doctors will be taken at the hospital's dispensary. Each month, the medical center will pay the balance of the proceeds to the specialists, after deduction of equipment's and wards rental fees and 20% from the overall proceeds to the medical center.

Shereen is married to Samuel for five years and still trying to conceive. They went to see Dr Meena to get her advice on their situation. After several tests, Dr Meena found that Shereen had an ovarian cyst, and she was of the view that emergency operation was required before they could go through another treatment. The parties agreed and the surgery was conducted by Dr Meena and her team.

Post-surgery condition was not in Shereen's favour. She was bleeding for a few days and required another surgery to save her life. After the second surgery, Shereen felt better and asked Dr Meena about other treatments she would suggest for her to get pregnant. To her surprise, Dr Meena told her that during the second surgery she had negligently removed her left ovary. However, Dr Meena convinced that her right ovary was still in a good condition, and she still has a high chance of pregnancy.

On a separate occasion, Rajesh, Dr Meena's brother, was hired as a lorry driver by Mahadi Brothers Industries Sdn Bhd since last year. He had a daily routine of sending a few bundles of raw materials to the customer, Indera Sakti Sdn Bhd. One day, while he was on his way to Indera Sakti Sdn Bhd, the car in front of him had an emergency brake and he failed to stop the lorry and banged the car. It caused the car severe damage and two of the passengers were taken to the hospital due to some injuries. Preliminary investigation reveals that Rajesh failed to stop the lorry because he drove beyond the speed limit and was too close to the car. The passengers of the car, Aimi and Aiman filed a suit against Rajesh. Rajesh claimed that his employer shall be liable to compensate the victims.

Based on the above situation:

a) Apply the principles of tort law to determine the liability of Putra Saga Medical Centre on the negligence of Dr Meena;

(15 marks)

b) Solve the issue which involves the liability of Mahadi Brothers Industries Sdn Bhd towards Aimi and Aiman.

(10 marks)

Total: 25 marks

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QUESTION 5

John is a 57-year-old diligent worker at Texas Instrument Company. Every day, he would give a lift to his best friend, Jonathan, who was also working in the same company. In April 2023, after picking up Joey at his house, they decided to use a new route to go to work.

While John was driving diligently in the right lane, a huge truck from the opposite lane suddenly swerved towards them. To avoid crashing into the truck, he turned the car towards the pedestrian walk and injured Nona who was walking her dog. As a result, Jonathan was instantly killed while John and Nona were rushed to the hospital. John's right hand had to be amputated while Nona was slightly injured.

Jonathan was 30 years old and lived with his wife, 10-year-old son, and his disabled sister whom he took care of since his mother's death in December 2022. His annual income after tax reduction was RM60,000. The money that he spent on his necessities such as food and entertainment was roughly RM500 per month. The funeral expenses the family spent was RM10,000.

John on the other hand, earns RM120,000 annually after-tax reduction. He was expecting to get a promotion and a raise in August 2023. Every month, his petrol and meal would cost around RM500. Before the accident, John suffered from hypertension.

Calculate the amount of compensation that John and Jonathan's family may claim, if any, with the support of relevant authorities.

(Total: 25 marks)

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